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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,263	03/08/2004	Laurie A. Gallagher	H0005976	2374

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Honeywell International, Inc.
Patent Legal Services
101 Columbia Road
Morristown, NJ 07962

EXAMINER

MRUK, BRIAN P

ART UNIT	PAPER NUMBER
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1796

MAIL DATE	DELIVERY MODE
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12/07/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/796,263

Applicant(s)

GALLAGHER ET AL.

Examiner

Brian P. Mruk

Art Unit

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office action is in response to Applicant's amendment filed September 26, 2007. Applicant has amended claims 1, 8, 23, 29 and 36. Currently, claims 1 and 3-44 remain pending in the application.
2. The text of those sections of Title 35 U.S. Code not included in this action can be found in the prior Office actions, Paper Nos. 20060616, 20061206, and 20070417.
3. The rejection of claims 1 and 3-35 under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Mitra et al, U.S. Patent No. 6,673,761, is maintained for the reasons of record.
4. The rejection of claims 1 and 3-35 under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Ouellette et al, U.S. 2004/0244132, is maintained for the reasons of record.
5. The rejection of claims 36-44 under 35 U.S.C. 103(a) as being unpatentable over Mitra et al, U.S. Patent No. 6,673,761, is maintained for the reasons of record.
6. The rejection of claims 36-44 under 35 U.S.C. 103(a) as being unpatentable over Ouellette et al, U.S. 2004/0244132, is maintained for the reasons of record.

7. The rejection of claims 1 and 3-44 under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Shannon, US 2003/0168642, is maintained for the reasons of record.

Response to Arguments

8. Applicant's arguments filed September 26, 2007 have been fully considered but they are not persuasive.

Applicant argues that Mitra et al, U.S. Patent No. 6,673,761, does not teach or suggest in general a cleaning composition that contains more than 5-10% by weight of a surfactant, as required in the newly amended claims. However, the examiner respectfully disagrees. Specifically, the examiner asserts that Mitra et al clearly discloses that their composition contains about 5% by weight of a surfactant, such as anionic and nonionic surfactants (see col. 8, line 23-col. 9, line 26). Also note that Example 1 in column 16 of Mitra et al discloses a composition that contains 10% by weight of a surfactant. Furthermore, as the word "about" recited in instant claims 1, 23 and 36 permits some tolerance (see *In re Ayers*, 69 USPQ 109 (CCPA 1946), and *In re Erickson*, 145 USPQ 207 (CCPA 1965)), the about 5% by weight of surfactant as taught by Mitra et al may be considered to read on the instant claims, where "more than 5% by weight of surfactant" is claimed. Alternatively, if the range of prior art and the claimed range do not overlap, obviousness may still exist if the ranges are close enough that one would not expect a difference in properties, absent a showing otherwise (see *In*

re Woodruff, 16 USPQ 2d 1934 (Fed. Cir. 1990); *Titanium Metals Corp. v. Banner*, 227 USPQ 773 (Fed. Cir. 1985); **In re Aller**, 105 USPQ 233, 255 (CCPA 1955)).

Applicant further argues that Ouellette et al, U.S. 2004/0244132, does not teach or suggest in general a cleaning formulation that contains 50-99% by weight of water. However, the examiner respectfully disagrees. Specifically, Ouellette et al clearly discloses a composition that contains less than 50% by weight of water (see paragraph 156). Furthermore, the examiner asserts that if the range of the prior art and the claimed range do not overlap, obviousness may still exist if the ranges are close enough that one would not expect a difference in properties, absent a showing otherwise (see **In re Woodruff**, 16 USPQ 2d 1934 (Fed. Cir. 1990); *Titanium Metals Corp. v. Banner*, 227 USPQ 773 (Fed. Cir. 1985); **In re Aller**, 105 USPQ 233, 255 (CCPA 1955)). Also see *MPEP* 2144.05. In the instant case, the examiner asserts that it would have been obvious to optimize the water content from less than 50% by weight to exactly 50% by weight in the cleaning formulation taught by Ouellette et al, since one of ordinary skill in the art would not expect a difference in properties for a cleaning formulation that contains less than 50% by weight of water versus a cleaning formulation that contains exactly 50% by weight of water, absent a showing otherwise.

Applicant argues that Shannon, US 2003/0168642, does not teach or suggest in general a cleaning composition that contains more than 5-10% by weight of a surfactant, as required in the newly amended claims. However, the examiner respectfully disagrees. Specifically, the examiner asserts that Shannon clearly discloses that their composition contains about 5% by weight of a surfactant, such as

anionic and nonionic surfactants (see paragraphs 10 and 26-31). Furthermore, as the word "about" recited in instant claims 1, 23 and 36 permits some tolerance (see *In re Ayers*, 69 USPQ 109 (CCPA 1946), and *In re Erickson*, 145 USPQ 207 (CCPA 1965)), the about 5% by weight of surfactant as taught by Shannon may be considered to read on the instant claims, where "more than 5% by weight of surfactant" is claimed. Alternatively, if the range of prior art and the claimed range do not overlap, obviousness may still exist if the ranges are close enough that one would not expect a difference in properties, absent a showing otherwise (see *In re Woodruff*, 16 USPQ 2d 1934 (Fed. Cir. 1990); *Titanium Metals Corp. v. Banner*, 227 USPQ 773 (Fed. Cir. 1985); *In re Aller*, 105 USPQ 233, 255 (CCPA 1955)). Furthermore, the examiner asserts that Shannon clearly discloses that suitable surfactants include nonionic surfactants, such as ethoxylated alcohols (see paragraph 27), as required in the instant claims.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian P. Mruk whose telephone number is (571) 272-1321. The examiner can normally be reached on Mon-Thurs (7:00 AM-5:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BPM

Brian P Mruk
December 5, 2007

Brian P. Mruk

Brian P Mruk
Primary Examiner
Art Unit 1796